

RULES AND REGULATIONS

PRORATE BASE SCHEDULE—Continued

VALENCIA ORANGES—continued

Prorate District No. 1—Continued

Handler	Prorate base (percent)
Smith, E. L.	0.0546
Swenson, L. W.	.0040
Terry, Floyd	.0027
Woodlake Heights Packing Corp.	.5749
Zaninovich Bros., Inc.	.5016

Prorate District No. 2

Total	100.0000
A. F. G. Alta Loma	.0912
A. F. G. Corona	.0564
A. F. G. Fullerton	.8403
A. F. G. Orange	.3745
A. F. G. Riverside	.1384
A. F. G. San Juan Capistrano	.5865
A. F. G. Santa Paula	.4682
Eadington Fruit Co., Inc.	5.5890
Hazeltine Packing Co.	.3949
Krinard Packing Co.	.2140
Placentia Cooperative Orange Association	.5085
Placentia Pioneer Valencia Growers Association	.6506
Signal Fruit Association	.1089
Azusa Citrus Association	.5266
Covina Citrus Association	1.2020
Covina Orange Growers Association	.6033
Damerel-Allison Association	.7773
Glendora Citrus Association	.5290
Glendora Mutual Orange Association	.3300
Valencia Heights Orchard Association	.4054
Gold Buckle Association	.4892
La Verne Orange Association	.6725
Anaheim Valencia Orange Association	1.3038
Fullerton Mutual Orange Association	2.6113
La Habra Citrus Association	1.1420
Yorba Linda Citrus Association, The	1.0114
Escondido Orange Association	2.4169
Alta Loma Heights Citrus Association	.0506
Citrus Fruit Growers	.1977
Etiwanda Citrus Fruit Association	.0276
Mountain View Fruit Association	.0467
Old Baldy Citrus Association	.1162
Rialto Heights Orange Growers	.0640
Upland Citrus Association	.3534
Upland Heights Orange Association	.1458
Consolidated Orange Growers	1.8359
Frances Citrus Association	1.1930
Garden Grove Citrus Association	1.7275
Goldenwest Citrus Association	1.7854
Irvine Valencia Growers	3.1410
Olive Heights Citrus Association	2.0994
Santa Ana-Tustin Mutual Citrus Association	.9097
Santiago Orange Growers Association	3.8419
Tustin Hills Citrus Association	1.9322
Villa Park Orchards Association, The	2.1241
Bradford Bros., Inc.	.9211
Placentia Mutual Orange Association	3.6413
Placentia Orange Growers Association	3.3891
Yorba Orange Growers Association	.8601
Call Ranch	.0761
Corona Citrus Association	.4937
Jameson Co.	.0833
Orange Heights Orange Association	.6284
Crafton Orange Growers Association	.2685
East Highlands Citrus Association	.0668
Redlands Heights Groves	.1782

PRORATE BASE SCHEDULE—Continued

VALENCIA ORANGES—continued

Prorate District No. 2—Continued

Handler	Prorate base (percent)
Redlands Orangedale Association	0.1436
Rialto-Fontana Citrus Association	.0843
Break & Son, Allen	.0505
Bryn Mawr Fruit Growers Association	.1021
Mission Citrus Association	.1321
Redlands Cooperative Fruit Association	.2846
Redlands Orange Growers Association	.1570
Redlands Select Groves	.2668
Rialto Orange Co.	.1887
Southern Citrus Association	.1499
Zilen Citrus Co.	.0573
Arlington Heights Citrus Co.	.1462
Brown Estate, L. V. W.	.1352
Gavilan Citrus Association	.1534
Highgrove Fruit Association	.0655
McDermont Fruit Co.	.1308
Monte Vista Citrus Association	.2438
National Orange Co.	.0539
Riverside Heights Orange Growers Association, The	.0375
Sierra Vista Packing Association	.0466
Victoria Avenue Citrus Association	.2118
Claremont Citrus Association	.0968
College Heights Orange & Lemon Association	.3527
Indian Hill Citrus Association	.2022
Walnut Fruit Growers Association	.5577
West Ontario Citrus Association	.1830
El Cajon Valley Citrus Association	.2326
Escondido Cooperative Citrus Association	.3134
San Dimas Orange Growers Association	.3425
Canoga Citrus Association	.9335
North Whittier Heights Citrus Association	1.0011
San Fernando Heights Orange Association	.7996
Sierra Madre-Lamanda Citrus Association	.3450
Camarillo Citrus Association	1.3978
Fillmore Citrus Association	3.1847
Mupu Citrus Association	2.0796
Ojai Orange Association	.6910
Piru Citrus Association	2.2052
Rancho Sespe	.8097
Santa Paula Orange Association	1.0938
Tapo Citrus Association	1.0131
Ventura County Citrus Association	.3765
Limonera Co.	.4195
East Whittier Citrus Association	.3852
Murphy Ranch Co.	.8381
Anaheim Cooperative Orange Association	1.8377
Bryn Mawr Mutual Orange Association	.1398
Chula Vista Mutual Lemon Association	.0913
Euclid Avenue Orange Association	.6340
Foothill Citrus Union, Inc.	.1018
Fullerton Cooperative Orange Association	.3799
Garden Grove Orange Cooperative, Inc.	1.0690
Golden Orange Groves, Inc.	.2304
Highland Mutual Groves, Inc.	.0095
Index Mutual Association	.4331
La Verne Cooperative Citrus Association	1.7306
Mentone Heights Association	.0417
Olive Hillside Groves, Inc.	.5663
Orange Cooperative Citrus Association	1.5169
Redlands Foothill Groves	.4499
Redlands Mutual Orange Association	.1912
Ventura County Orange & Lemon Association	1.2152

PRORATE BASE SCHEDULE—Continued

VALENCIA ORANGES—continued

Prorate District No. 2—Continued

Handler	Prorate base (percent)
Whittier Mutual Orange & Lemon Association	0.1001
Babijuce Corp. of California	.8274
Banks, L. M.	.7220
Becker, Samuel Eugene	.0114
Bennett Fruit Co.	.1248
Borden Fruit Co.	.4956
Cherokee Citrus Co., Inc.	.1630
Chess Co., Meyer W.	.4277
Dunning Ranch	.0511
Evans Bros. Packing Co.	1.0012
Gold Banner Association	.1951
Granada Hills Packing Co.	.0281
Granada Packing House	1.2231
Hill Packing House, Fred A.	.0626
Johnson, Fred	.0059
Knapp Packing Co., John C.	.5174
L Bar S Ranch	.1141
Lawson, William J.	.0071
Lima & Sons, Joe	.1305
Orange Belt Fruit Distributors	1.3225
Orange Hill Groves	.0071
Otte, Arnold	.0674
Panno Fruit Co., Carlo	1.0266
Patitucci, Frank L.	.0095
Placentia Orchard Co.	.5468
Prescott, John A.	.0199
Riverside Citrus Association	.0380
Ronald, P. W.	.0219
Ronneberg, Jerry L.	.0048
Schwaer, Erwin & Arthur	.0152
Summit Citrus Packers	.0170
Treesweet Products Co.	.2746
Wall, E. T., grower-shipper	.1221
Western Fruit Growers, Inc.	.6134

Prorate District No. 3

Total	100.0000
A. F. G. Vernon	.0000
Allen & Allen Citrus Packing Co.	1.1346
Consolidated Citrus Growers	17.1098
McKellips Citrus Co., Inc.	8.3239
Phoenix Citrus Packing Co.	1.8683
Arizona Citrus Growers	15.5349
Chandler Heights Citrus Growers	2.5367
Desert Citrus Growers Co.	6.0107
Mesa Citrus Growers	18.2100
Tempe Citrus Co.	3.2949
Imperial Valley Grapefruit Growers Association	.0000
Southern Citrus Association	.0000
United Citrus Growers	.0000
Yuma Mesa Fruit Growers Association	2.0818
Leppla-Henry Produce Co.	10.1541
Maricopa Citrus Co.	1.0704
Pioneer Fruit Co.	3.3602
Clark & Sons Produce Co., J. H.	.3503
Commercial Citrus Packing Co.	1.1457
Hi Jolly Citrus Packing House	.0966
Hill Packing House, Fred A.	.0000
Ishikawa, Paul	.0000
Macchiaroli Fruit Co., James	1.3753
Mattingly, Charles A.	.3066
Messina & Sons, Mike	.0746
Orange Belt Fruit Distributors	.0000
Panno Fruit Co., Carlo	.0000
Paramount Citrus Association, Inc.	.0366
Potato House, The	.4877
Russo Bros	.0000
Sharp Co., K. K.	.2538
Sunny Valley Citrus Packing Co.	2.6891
Terracciano Fruit Co.	.2773
Valley Citrus Packing Co.	2.2161

[F. R. Doc. 51-5600; Filed, May 11, 1951;
11:08 a.m.]

TITLE 14—CIVIL AVIATION

Chapter I—Civil Aeronautics Board

Subchapter A—Civil Air Regulations

[Supp. 1]

PART 20—PILOT CERTIFICATES

EXPERIENCE REQUIREMENTS INSTRUMENT RATING

The following interpretation is hereby adopted:

§ 20.42-1 *Experience requirements instrument rating (CAA interpretations which apply to § 20.42 (b) (2)).* Simulated instrument flight time need not necessarily be instrument flight instruction and may be obtained with a safety pilot who does not hold an instrument rating. The safety pilot must hold an instrument rating only when he is giving instrument flight instructions.

This interpretation shall become effective upon publication in the FEDERAL REGISTER.

(Sec. 205, 52 Stat. 984, as amended; 49 U. S. C. 425. Interprets or applies sec. 602, 52 Stat. 1008, 49 U. S. C. 552)

[SEAL]

F. B. LEE,
*Acting Administrator of
Civil Aeronautics.*

[F. R. Doc. 51-5477; Filed, May 11, 1951;
8:45 a. m.]

TITLE 19—CUSTOMS DUTIES

Chapter I—Bureau of Customs, Department of the Treasury

[T. D. 52721]

PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.

CANCELLATION OF BONDS

Under § 10.39 of the Customs Regulations of 1943, as amended by T. D. 52454, the relief which the collectors of customs may extend in cases where there has been compliance with the terms of the bond with respect to part of but not all the articles covered thereby is limited to cancellation of the claim for liquidated damages upon the payment of an amount equal to one and one-quarter times the duty on the articles in respect of which the default occurred. Since there are many cases in which the Bureau's practice is to cancel the claim for liquidated damages upon payment of a nominal sum and which the collectors acted upon prior to T. D. 52454, § 10.39, Customs Regulations of 1943 (19 CFR 10.39), as amended, is further amended as follows:

1. Paragraph (f) is amended by inserting "or, under the circumstances enumerated in subparagraphs (1), (2), or (3) of paragraph (e) of this section, upon payment of such lesser amount as the collector may deem appropriate" immediately after "occurred".

2. Paragraph (g) is hereby amended by deleting the first sentence and the words "paragraph (e) or (f) of" in the second sentence.

(R. S. 161, 251, sec. 624, 46 Stat. 759; 5 U. S. C. 22, 19 U. S. C. 66, 1624. Interprets or applies

secs. 308, 623, 46 Stat. 690, as amended, 759, as amended, pars. 1607, 1747, 1808, sec. 201, 46 Stat. 673, 680, 684; 19 U. S. C. 1308, 1623, 1201, pars. 1607, 1747, 1808)

[SEAL]

D. B. STRUBINGER,
Acting Commissioner of Customs.

Approved: May 8, 1951.

JOHN S. GRAHAM,

Acting Secretary of the Treasury.

[F. R. Doc. 51-5495; Filed, May 11, 1951;
8:46 a. m.]

TITLE 24—HOUSING AND HOUSING CREDIT

Chapter II—Federal Housing Administration, Housing and Home Finance Agency

Subchapter B—Property Improvement Loans

PART 203—TITLE I MORTGAGE INSURANCE; ELIGIBILITY REQUIREMENTS

DEFENSE PRODUCTION ACT OF 1950 CONTROLS

Section 203.20b is hereby amended by adding at the end thereof the following new paragraph:

(d) The provisions of § 203.20a and of this section shall not be applicable under the following circumstances:

(1) Where the mortgagor certifies in a form satisfactory to the Commissioner that the entire proceeds of the mortgage are to be used for the replacement, reconstruction or repair of a residential structure destroyed or substantially damaged by flood, fire or other similar casualty;

(2) Where the mortgagor certifies in a form satisfactory to the Commissioner that on or after July 19, 1950, he was the owner of a residence and that his title thereto has been transferred to the United States, or to one of the States or subdivisions thereof, through condemnation proceedings or by voluntary conveyance in lieu of condemnation, and that the proceeds of the mortgage are to be used solely to finance the purchase or construction of a similar residence to be used in substitution therefor; or

(3) Where an application is made to the Commissioner in the nature of a request to reopen or reissue an expired commitment, provided that the Commissioner finds that such commitment was not subject to the provisions of § 203.20a or of this section when issued, and that such commitment expired on or after July 19, 1950, and that the application of the provisions of § 203.20a or of this section to the reopened or reissued commitment would cause severe hardship to the mortgagor or mortgagee.

(Sec. 2, 48 Stat. 1246, as amended; 12 U. S. C. and Sup., 1730g. Interprets or applies sec. 102, Pub. Law 475, 81st Cong.)

Issued at Washington, D. C., May 7, 1951.

FRANKLIN D. RICHARDS,
Federal Housing Commissioner.

[F. R. Doc. 51-5478; Filed, May 11, 1951;
8:45 a. m.]

Subchapter C—Mutual Mortgage Insurance

PART 221—MUTUAL MORTGAGE INSURANCE; ELIGIBILITY REQUIREMENTS OF MORTGAGE COVERING ONE- TO FOUR-FAMILY DWELLINGS

DEFENSE PRODUCTION ACT OF 1950 CONTROLS

1. Section 221.26d (b) is hereby amended to read as follows:

(b) For the period this paragraph remains in effect, and notwithstanding the provisions of § 221.16, a mortgage insured pursuant to an application received by the Commissioner on or after October 12, 1950, and covering property upon which there is located a dwelling designed principally for a single-family or a two-family residence, must have a maturity satisfactory to the Commissioner not more than 20 years from the date of insurance, except that, if the amount of the mortgage is \$5,800 or less per family unit and the property is approved for insurance prior to the beginning of construction, the mortgage may have a maturity not in excess of 25 years from the date of insurance.

2. Section 221.26d is further amended by adding at the end thereof the following new paragraph:

(d) The provisions of § 221.26c and of this section shall not be applicable under the following circumstances:

(1) Where the mortgagor certifies in a form satisfactory to the Commissioner that the entire proceeds of the mortgage are to be used for the replacement, reconstruction or repair of a residential structure destroyed or substantially damaged by flood, fire or other similar casualty;

(2) Where the mortgagor certifies in a form satisfactory to the Commissioner that on or after July 19, 1950, he was the owner of a residence and that his title thereto has been transferred to the United States, or to one of the States or subdivisions thereof, through condemnation proceedings or by voluntary conveyance in lieu of condemnation, and that the proceeds of the mortgage are to be used solely to finance the purchase or construction of a similar residence to be used in substitution therefor; or

(3) Where an application is made to the Commissioner in the nature of a request to reopen or reissue an expired commitment, provided that the Commissioner finds that such commitment was not subject to the provisions of § 221.26c or of this section when issued, and that such commitment expired on or after July 19, 1950, and that the application of the provisions of § 221.26c or of this section to the reopened or reissued commitment would cause severe hardship to the mortgagor or mortgagee.

(Sec. 211, as added by sec. 3, 52 Stat. 23; 12 U. S. C. 1715b)

Issued at Washington, D. C., May 7, 1951.

FRANKLIN D. RICHARDS,
Federal Housing Commissioner.

[F. R. Doc. 51-5479; Filed, May 11, 1951;
8:45 a. m.]

TITLE 29—LABOR

Subtitle A—Office of the Secretary of Labor

PART 5—LABOR STANDARDS PROVISIONS APPLICABLE TO CONTRACTS COVERING FEDERALLY FINANCED AND ASSISTED CONSTRUCTION

Reorganization Plan No. 14 of 1950 provides that in order to assure coordination of administration and consistency of enforcement of the labor standards provisions of various designated acts by the Federal agencies responsible for the administration thereof, the Secretary of Labor shall prescribe appropriate standards, regulations, and procedures which shall be observed by these agencies, and cause to be made by the Department of Labor such investigations, with respect to compliance with and enforcement of such labor standards, as he deems desirable. In compliance with such directive the following regulations, standards and procedures are adopted, to be effective July 1, 1951.

Now, therefore, pursuant to authority vested in me by Reorganization Plan No. 14 of 1950 and the act of September 23, 1950, 64 Stat. 967, a new Part 5 is added, to read as follows:

Sec.

- 5.1 Purpose and scope.
- 5.2 Definitions.
- 5.3 Procedure for requesting wage determinations.
- 5.4 Use of wage determinations.
- 5.5 Contract provisions.
- 5.6 Enforcement.
- 5.7 Reports to the Secretary of Labor.
- 5.8 Suspension of funds.
- 5.9 Restitution.
- 5.10 Investigations by the Secretary of Labor.
- 5.11 Rulings and interpretations.
- 5.12 Variations, tolerances and exemptions.

AUTHORITY: §§ 5.1 to 5.12 issued under Pub. Law 815, 81st Cong.

§ 5.1 *Purpose and scope.* The regulations contained in this part are promulgated pursuant to Reorganization Plan No. 14 of 1950, the provisions of the Reorganization Act of 1949, 63 Stat. 203 and the act of September 23, 1950, 64 Stat. 967, in order to coordinate the administration and enforcement of the labor standards provisions of each of the following acts by the Federal agencies responsible for their administration, i. e.:

Davis-Bacon Act, as amended, 46 Stat. 1994, 49 Stat. 1011, 54 Stat. 399, 55 Stat. 53; 40 U. S. C. 276a et seq.

Anti-Kickback Act, as amended, 48 Stat. 948, 62 Stat. 740, 63 Stat. 108; 18 U. S. C. 874, 40 U. S. C. 276b, c.

Eight Hour Laws, 27 Stat. 340, as amended, 37 Stat. 726, 37 Stat. 137, as amended, 54 Stat. 884; 39 Stat. 1192; 40 U. S. C. 321 et seq.

National Housing Act, as amended, 53 Stat. 804; 12 U. S. C. 1703 et seq.

Hospital Survey and Construction Act, 60 Stat. 1040; 42 U. S. C. 291 et seq.

Federal Airport Act, as amended, 60 Stat. 170; 49 U. S. C. 1101 et seq.

Housing Act of 1949, 63 Stat. 413; 42 U. S. C. 1401 et seq.

School Survey and Construction Act of 1950, 64 Stat. 967 et seq.; 20 U. S. C. 251 et seq.

§ 5.2 *Definitions.* As used in the regulations¹ in this part:

(a) The term "Agency Head" means the principal official of the Federal agency and includes those persons duly authorized to act in his behalf;

(b) The term "Contracting Officer" means the individual, his duly appointed successor or his authorized representative who is designated and authorized to enter into contracts on behalf of the Federal agency;

(c) The term "apprentices" means persons employed in a bona fide apprenticeship program registered with a State Apprenticeship Council which is recognized by the Federal Committee on Apprenticeship, United States Department of Labor, or if no such recognized Council exists in a State, in a program registered with the Bureau of Apprenticeship, United States Department of Labor;

(d) The term "wage determination" includes the original decision and any subsequent decisions modifying, superseding, correcting, or in any way affecting the provisions of the original decision, issued prior to the award of the construction contract, except that under the National Housing Act changes in the decision shall be effective if made at any time prior to the beginning of construction. The use of the wage determination shall be subject to the provisions of § 5.4.

(e) The term "contract" means any contract within the scope of the labor standards provisions of any of the acts listed in § 5.1 and which is entered into for the actual construction alteration and/or repair, including painting and decorating, of a public building or public work, or building or work financed in whole or in part from Federal funds or in accordance with guarantees of a Federal agency or financed from funds obtained by pledge of any contract of a Federal agency to make a loan, grant or annual contribution.

(f) The terms "building" or "work" generally include construction activity as distinguished from manufacturing, furnishing of materials, or servicing and maintenance work. The terms include without limitation, buildings, structures, and improvements of all types, such as bridges, dams, plants, highways, parkways, streets, subways, tunnels, sewers, mains, power lines, pumping stations, railways, ships, vessels, airports, terminals, docks, piers, wharves, ways, light-houses, buoys, jetties, breakwaters, levees, canals, dredging, shoring, rehabilitation and reactivation of plants, scaffolding, drilling, blasting, excavating, clearing, and landscaping. The manufacture or furnishing of materials, articles, supplies or equipment (whether or not a Federal or State agency acquires title to such materials, articles, supplies, or equipment during the course of the manufacture or furnishing, or owns the materials from which they are manufactured or furnished) is not a "build-

ing" or "work" within the meaning of the regulations in this part unless conducted in connection with and at the site of such a building or work as is described in the foregoing sentence, or under the Housing Act of 1949² in the construction or development of the project.

(g) The terms "construction", "prosecution", "completion", or "repair" mean all types of work done on a particular building or work at the site thereof, or under the Housing Act of 1949 in the construction or development of the project, including without limitation, altering, remodeling, painting and decorating, the transporting of materials and supplies to or from the building or work by the employees of the construction contractor or construction subcontractor, and the manufacturing or furnishing of materials, articles, supplies or equipment on the site of the building or work, or under the Housing Act of 1949 in the construction or development of the project, by persons employed by the contractor or subcontractor. A mere token beginning of the work shall not be deemed to be the "beginning of construction" as that term is used in the National Housing Act.

(h) The term "public building" or "public work" includes building or work, the construction, prosecution, completion, or repair of which, as defined above, is carried on directly by authority of or with funds of a Federal agency to serve the interest of the general public regardless of whether title thereof is in a Federal agency.

(i) Every person paid by a contractor or subcontractor in any manner for his labor in the construction, prosecution, completion, or repair of a public building or public work, or building or work financed in whole or in part by loans, grants or guarantees from the United States, is "employed" and receiving "wages", regardless of any contractual relationship alleged to exist.

(j) The term "Federal agency" means the United States, the District of Columbia, and all executive departments, independent establishments, administrative agencies, and instrumentalities of the United States and of the District of Columbia, including corporations, all or substantially all of the stock of which is beneficially owned by the United States, by the District of Columbia, or any of the foregoing departments, establishments, agencies, and instrumentalities.

§ 5.3 *Procedure for requesting wage determinations.* Requests for the determination of wage rates by the Secretary of Labor or for any change, modification, or review thereof, shall be submitted by the Federal agency on forms prescribed by the Department of Labor. Requests for such determinations shall be initiated at least 30 calendar days before advertisement of the specifications or the beginning of the negotiations for the contract for which the determination is sought; exceptions from this provision will be made only upon a proper showing in unusual circumstances.

¹ These definitions are not intended to restrict the meaning of any of the terms as used in the applicable statutes.

² Housing Act of 1949, 42 U. S. C. 1416, 1459.

§ 5.4 Use of wage determinations.

(a) If the proposed contract for which determination was sought has not been awarded or if under a contract subject to the National Housing Act construction has not begun within 90 calendar days from the date of the original wage determination such determination shall be deemed obsolete and the Agency Head shall request a new wage determination before the award of such contract or the beginning of such construction, as the case may be.

(b) All actions changing or modifying an original wage determination prior to the award of the contract or contracts for which the determination was sought shall be applicable thereto but modifications received by the agency later than 5 days before the opening of bids shall not be effective if the award is made within 30 days after the opening of the bids or 90 days from the date of the original wage determination whichever is the earlier. Similarly, in the case of contracts entered into pursuant to the National Housing Act, changes or modifications in the original determination shall be effective if made prior to the beginning of the construction, but shall not apply after the mortgage is initially endorsed by the agency if the beginning of the construction takes place within 30 days thereafter. The Agency Head shall provide that persons such as the prospective bidders, sponsors, applicants or owners be informed of these conditions.

§ 5.5 Contract provisions. (a) The Agency Head shall cause or require to be inserted in any contract subject to the labor standards provisions of any of the acts listed in § 5.1 the following stipulations or any modifications thereof to meet particular needs of the agency if first approved by the Department of Labor:

(1) All mechanics and laborers employed or working upon the site of the work, or under the Housing Act of 1949 in the construction or development of the project, will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by the Anti-Kickback Regulations (29 C.F.R. Part 3)), the full amounts due at time of payment computed at wage rates not less than those contained in the wage determination decision of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor or subcontractor and such laborers and mechanics; and the wage determination decision shall be posted by the contractor at the site of the work in a prominent place where it can be easily seen by the workers.

(2) The [write in name of Federal agency] may withhold or cause to be withheld from the contractor so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics employed by the contractor or any subcontractor on the work the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic employed or working on the site of the work, or under the Housing Act of

1949 in the construction or development of the project, all or part of the wages required by the contract, the [Agency] may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

(3) Payroll records will be maintained during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work, or under the Housing Act of 1949 in the construction or development of the project. Such records will contain the name and address of each such employee, his correct classification, rate of pay, daily and weekly number of hours worked, deductions made and actual wages paid.

The contractor will submit weekly a certified copy of all payrolls to the [write in name of appropriate Federal agency] if the agency is a party to the contract but if the agency is not such a party the contractor will submit the certified payrolls to the applicant, sponsor, or owner, as the case may be, for transmission to the [write in name of agency]. The certification will affirm that the payrolls are correct and complete, that the wage rates contained therein are not less than those determined by the Secretary of Labor and that the classifications set forth for each laborer or mechanic conform with the work he performed. The contractor will make his employment records available for inspection by authorized representatives of the [write in name of agency] and the Department of Labor, and will permit such representatives to interview employees during working hours on the job.

(4) Apprentices will be permitted to work only under a bona fide apprenticeship program registered with a State Apprenticeship Council which is recognized by the Federal Committee on Apprenticeship, U. S. Department of Labor; or if no such recognized Council exists in a State, under a program registered with the Bureau of Apprenticeship, U. S. Department of Labor.

(5) The contractor will comply with the regulations (copy of which is attached) of the Secretary of Labor made pursuant to the Anti-Kickback Act of June 13, 1934, 48 Stat. 948; 62 Stat. 740, 63 Stat. 108; 18 U. S. C. 874, 40 U. S. C. 276 b, c, and any amendments or modifications thereof, will cause appropriate provisions to be inserted in subcontracts to insure compliance therewith by all subcontractors subject thereto, and will be responsible for the submission of affidavits required of subcontractors thereunder, except as the Secretary of Labor may specifically provide for reasonable limitations, variations, tolerances and exemptions from the requirements thereof.

(6) The contractor will insert in each of his subcontracts the provisions set forth in stipulations (1), (2), (3), (4), (5) and (7) hereof, and such other stipulations as the [write in name of Federal agency] may by appropriate instructions require.

(7) A breach of stipulations (1) through (6) may be grounds for termination of the contract.

(b) The Agency Head shall cause or require the following stipulation to be included in the contract where applicable:

EIGHT HOUR LAW—OVERTIME COMPENSATION

No laborer or mechanic doing any part of the work contemplated by this contract, in the employ of the contractor or any subcontractor contracting for any part of said work contemplated, shall be required or permitted to work more than eight hours in any one calendar day upon such work, except upon the condition that compensation is paid to such laborer or mechanic in accordance with the provisions of this article of the contract. The wages of every

laborer and mechanic employed by the contractor or any subcontractor engaged in the performance of this contract shall be computed on a basic day rate of eight hours per day and work in excess of eight hours per day is permitted only upon the condition that every such laborer and mechanic shall be compensated for all hours worked in excess of eight hours per day at not less than one and one-half times the basic rate of pay. For each violation of the requirements of this article of the contract a penalty of five dollars shall be imposed upon the contractor for each laborer or mechanic for every calendar day in which such employee is required or permitted to labor more than eight hours upon said work without receiving compensation computed in accordance with this article of the contract, and all penalties thus imposed shall be withheld for the use and benefit of the Government: *Provided*, That this stipulation shall be subject in all respects to the exceptions and provisions of the Eight Hour Laws as set forth in U. S. Code, title 40, sections 321, 324, 325, 325a, and 326, which relate to hours of labor and compensation for overtime.

§ 5.6 Enforcement. (a) It shall be the responsibility of the Federal agency to ascertain whether the stipulations required by § 5.5 have been inserted in the contracts. Agencies which do not directly enter into such contracts shall promulgate the necessary regulations or procedures to require that the contracts contain the provisions of § 5.5 or such modifications thereof which have been approved by the Department of Labor. No payment, advance, grant, loan or guarantee of funds shall be approved by the Federal agency after the beginning of construction unless there is on file with the agency a certification by the contractor that he and his subcontractors have complied or that there is an honest dispute with respect to the required provisions.

(b) Whenever any contractor or subcontractor is found by the Secretary of Labor or the Agency Head to be in aggravated or wilful violation of the prevailing wage or overtime pay provisions of any of the applicable statutes listed in § 5.1, other than the Davis-Bacon Act, such contractor or subcontractor or any firm, corporation, partnership, or association in which such contractor or subcontractor has a substantial interest shall be ineligible for a period of three years (from the date of publication by the Comptroller General of the name or names of said contractor or subcontractor on the ineligible list as provided below) to receive any contracts subject to any of the statutes listed in § 5.1. In cases arising under contracts covered by the Davis-Bacon Act, the ineligibility provision prescribed in that act shall govern.

The Agency Head shall furnish to the Secretary of Labor for transmittal to the Comptroller General the names of the persons or firms who have been found to have disregarded their obligations to employees. The Comptroller General will distribute a list to all Departments of the Government giving the names of such ineligible persons or firms.

(c) Under the Davis-Bacon Act the contracting officer shall require that any class of laborers and mechanics not listed in the Secretary's decision, which will be employed on the contract, shall be classified or reclassified by the contrac-

* This does not apply to supplemental wage determinations issued for additional crafts not included in the original determinations.

tor or subcontractor conformably to the Secretary's decision and a report of the administrative action taken in such cases shall be transmitted by the agency to the Secretary of Labor. In the event the interested parties cannot agree on the proper classification or reclassification of a particular class of laborers and mechanics to be used, the question, accompanied by the recommendation of the contracting officer, shall be referred to the Secretary of Labor for final determination. Where classifications of laborers and mechanics are desired under any of the other statutes listed in § 5.1 which were not included in the original decision, a supplementary wage determination shall be requested by the Agency Head.

(d) The Federal agency shall make such examination of the certified payrolls and affidavits as may be necessary to assure compliance with the labor standards stipulations required by the regulations contained in this part and the applicable statutes listed in § 5.1. In connection with such examination particular attention should be given to the correctness of classifications and disproportionate employment of laborers, helpers or apprentices. Such payrolls and affidavits shall be preserved by the agency for a period of three years from the date of completion of the contract and shall be produced at the request of the Secretary of Labor at any time during the 3-year period.

(e) In addition to the examination of payrolls and affidavits required by paragraph (d) of this section, the Federal agency shall cause investigations to be made as may be necessary to assure compliance with the labor standards stipulations required by the regulations contained in this part and the applicable statutes listed in § 5.1. Projects where the contract is of short duration (6 months or less) shall be investigated before the work is accepted, if feasible. In the case of contracts which extend over a long period of time the investigation shall be made with such frequency as may be necessary to assure compliance. Such investigations shall include interviews with employees and examinations of payroll data to determine the correctness of classifications and disproportionate employment of laborers, helpers or apprentices. Complaints of alleged violations shall be given priority and statements, written or oral, made by an employee shall be treated as confidential and shall not be disclosed to his employer without the consent of the employee.

§ 5.7 Reports to the Secretary of Labor. (a) After completion of investigations, the appropriate Federal agency shall, where the violations are wilful or result in underpayments in the amount of \$200 or more, transmit to the Secretary of Labor a report of its findings, including information as to restitution made; payments or approvals of loans, grants, guarantees, or subsidies withheld; contract terminations; the names and addresses of employees and contractors or subcontractors affected. The procedure for the withholding of funds under the Davis-Bacon Act shall be in

accordance with the Comptroller General's letter of February 28, 1936, A. 34106, which is appended hereto.*

(b) No report need be made to the Secretary of Labor where the underpayments total less than \$200, if nonwilful, and the Federal agency has required restitution to be made and has received assurance from the contractor of future compliance.

(c) Upon the award of the contract the Agency Head shall transmit to the Secretary of Labor in duplicate the following information in writing: The names and addresses of each successful contractor, the amount of the contract, and the location and description of the projects including the contract numbers if available in sufficient detail to indicate its nature. The same information shall be submitted with respect to subcontractors and their subcontracts. Compliance with section 109 (c) of Title 1 of the Housing Act of 1949, shall be deemed to be fulfillment of this section with respect to contracts entered into pursuant to Title 1 of that act.

(d) Where the contract is terminated by reason of violations of the labor standards a report shall be submitted to the Secretary of Labor and the Comptroller General giving the name and address of the contractor or subcontractor whose right to proceed has been terminated, the name and address of the contractor or subcontractor, if any, who is to complete the work, the amount and number of his contract, and the description of the work he is to perform.

§ 5.8 Suspension of funds. In the event of failure or refusal of the contractor or any subcontractor to comply with labor standards stipulations required by the regulations contained in this part and the applicable statutes listed in § 5.1, the Federal agency shall take such action as may be necessary to cause the suspension of the payment, advance or guarantee of funds until such time as the violations are discontinued or until sufficient funds are withheld to compensate employees for the wages to which they are entitled.

§ 5.9 Restitution. (a) The Agency Head may, in appropriate cases where violations of the labor standards stipulations required by the regulations contained in this part and the applicable statutes listed in § 5.1 resulting in underpayment of wages to employees are found to be nonwilful, order that restitution be made to such employees.

(b) In cases where the Agency Head finds substantial evidence that such violations are wilful and in violation of a criminal statute, the Agency Head shall forward the matter to the Attorney General of the United States for prosecution if the facts warrant. In all such cases the Secretary of Labor shall be informed of the action taken.

§ 5.10 Investigations by the Secretary of Labor. (a) The Secretary of Labor shall cause to be made such investigations as he deems desirable, in order to obtain compliance with the provisions of this part and the applicable statutes

listed in § 5.1 and the Federal agencies, contractors, subcontractors, sponsors, applicants or owners, shall cooperate with any authorized representative of the Department of Labor in the inspection of records, in interviews with workers, and in all other aspects of the investigation.

(b) In the event of disputes concerning the payment of prevailing wage rates or proper classifications which involve significant sums of money, large groups of employees, or novel or unusual situations, the Secretary of Labor may, upon request by a Federal agency, direct a hearing to be held. For the purpose of the hearing the Secretary of Labor shall, in writing, designate a Hearing Examiner who shall, after notice to all interested parties, make such investigation and conduct such hearings as may be necessary and render a decision embodying his findings and conclusions and if wages are found to be due, the amounts thereof. The Hearing Examiner's decision shall be sent to the interested parties and shall be final unless a petition for review of the decision by the Secretary of Labor is filed by any such parties in quadruplicate with the Chief Hearing Examiner, United States Department of Labor, Washington 25, D. C., within twenty (20) days after receipt thereof. The petition for review must set out separately and particularly each objection asserted. The petition for review and the record which shall include the Examiner's decision then shall be certified by the Hearing Examiner to the Secretary of Labor. The petitioner may file a brief (original and four copies) in support of his petition within the twenty (20) day period and any interested party upon whom the Hearing Examiner's decision has been served may within ten (10) days after the expiration of the time for filing the petition for review, file a brief in support of, or in opposition to the Hearing Examiner's decision. The Secretary of Labor's decision shall be final.

§ 5.11 Rulings and interpretations. All questions arising in any agency relating to the application and interpretation of the regulations contained in this part and of the Davis-Bacon Act, the Anti-Kickback Act, the Eight Hour Laws, and the labor standards provisions of the following acts, the National Housing Act, the Housing Act of 1949, the Hospital Survey and Construction Act, the Federal Airport Act and the School Survey and Construction Act of 1950, shall be referred to the Secretary of Labor for appropriate ruling or interpretation. The rulings and interpretations of the Secretary shall be authoritative and may be relied upon as provided for in section 10 of the Portal to Portal Act of 1947. Requests for such rulings and interpretations should be addressed to the Secretary of Labor, United States Department of Labor, Washington 25, D. C.

§ 5.12 Variations, tolerances and exemptions. Upon a written finding by the head of a Federal agency, the Secretary of Labor may provide reasonable limitations, variations, tolerances, and exemptions from the requirements of

* Filed as a part of the original document.

the regulations contained in this part, subject to such conditions as the Secretary of Labor may specify.

Signed at Washington, D. C., this 9th day of May 1951.

MAURICE J. TOBIN,
Secretary of Labor.

[P. R. Doc. 51-5506; Filed, May 11, 1951;
8:49 a. m.]

TITLE 32—NATIONAL DEFENSE

Chapter IV—Joint Regulations of the Armed Forces

Subchapter L—Regulations Pertaining to Military Justice

PART 471—UNIFORM RULES OF PROCEDURE FOR PROCEEDINGS IN AND BEFORE BOARDS OF REVIEW

Pursuant to Article 66 (f), Uniform Code of Military Justice, Act of May 5, 1950 (64 Stat. 128), a new Subchapter L, Part 471, containing rules of procedure for proceedings in and before boards of review, is prescribed jointly by the Judge Advocate General of the Armed Forces and the General Counsel of the Treasury Department, effective May 31, 1951.

DEFINITIONS

Sec.
471.0 Definitions.

RULES

471.1 Quorum.
471.2 Place for filing papers.
471.3 Signing of papers.
471.4 Computation of time.
471.5 Counsel.
471.6 Records of trial.
471.7 Assignment of errors.
471.8 Briefs.
471.9 Hearings.
471.10 Decisions of a board of review.
471.11 Continuances and interlocutory matters.

APPENDICES

471.21 Appendix 1—Form for assignment of errors.
471.22 Appendix 2—Form for cover page of brief.
471.23 Appendix 3—Form for content of brief on behalf of accused.

AUTHORITY: §§ 471.0 to 471.23 issued under Art. 66, Pub. Law 506, 81st Cong.

DEFINITIONS

§ 471.0 *Definitions.* So far as the terms defined in Article 1 of the Uniform Code of Military Justice are used in this part they are used in the sense of their respective definitions therein unless the context indicates otherwise. As used in this part:

(a) "Appellate counsel" shall mean any counsel representing any party before a board of review.

(b) "Appellate defense counsel" shall mean any officer appointed by the Judge Advocate General to represent an accused before a board of review pursuant to Article 70, Uniform Code of Military Justice.

(c) "Appellate Government counsel" shall mean any officer appointed by the Judge Advocate General to represent the Government before a board of review pursuant to Article 70, Uniform Code of Military Justice.

(d) "Civilian counsel" shall mean civilian counsel provided by the accused to represent him before a board of review.

(e) "Appellate counsel for the accused" shall be construed to include appellate defense counsel and civilian counsel.

(f) "Defense counsel" shall mean any person who represented an accused at the trial by court-martial or who served as his counsel in the field.

RULES

§ 471.1 *Quorum.* A majority of the members of a board of review will constitute a quorum for the purpose of hearing and determining any matter referred to the board. The determination of any matter referred to a board of review will be according to the opinion of a majority of its members. In the absence of a quorum the senior member present may make all necessary orders touching any proceedings pending in the board preparatory to hearing or decision thereof. [Rule I]

§ 471.2 *Place for filing papers.* When the filing of a notice of appearance, brief, or other paper in the Office of a Judge Advocate General is required by this part, such papers will be filed in the Office of the Judge Advocate General of the appropriate armed force. If transmitted by mail or other means, they are not filed until received in such office. [Rule II]

§ 471.3 *Signing of papers.* All formal papers must be signed and must show, typewritten or printed, the name and address of the person signing same, together with his military rank, if any, and the capacity in which he signs the paper. Such signature constitutes a certificate that the statements made therein are true and correct to the best of the knowledge, information, and belief of the person signing the paper, and that the paper is filed in good faith and not for purposes of unnecessary delay. Papers will be filed only by the duly authorized counsel for the parties in interest and proof of such authorization may be required. [Rule III]

§ 471.4 *Computation of time.* Times referred to in this part are calendar days. If the last day falls on a Saturday, Sunday, or holiday compliance may be made on the next working day. [Rule IV]

§ 471.5 *Counsel—(a) Qualifications.* In any proceeding before a board of review the accused may be represented by civilian counsel provided by him or by assigned appellate defense counsel. Civilian counsel must be a member in good standing of the bar of a Federal court or of a court of record of any State of the United States, and may be required to file a certificate setting forth such qualifications. Appellate defense and Government counsel will be qualified in accordance with Article 70 (a) and 27 (b) (1) of the Uniform Code of Military Justice.

(b) *Conduct of counsel.* The conduct of counsel appearing before a board of review will be in accordance with the rules of conduct prescribed by para-

graph 42b, Manual for Courts-Martial, United States, 1951 (16 F. R. 1303).

(c) *Request for appellate defense counsel.* A request for representation by appellate defense counsel will be forwarded to the convening authority for attachment to the record or dispatched to the Office of the Judge Advocate General within ten days from the date of sentence. In cases referred to a board under Article 69, Uniform Code of Military Justice, the accused will have two days from the time he receives notice of such reference to forward a request for appellate defense counsel to the Office of the Judge Advocate General unless he has already forwarded such request. Any request for appellate defense counsel should be accompanied by a statement as to the errors or other matters urged as grounds for relief. Such statement need not be in technical form and the assistance of counsel in the field will be available for its preparation. In the event defense counsel files a brief as provided in Article 38 (c), Uniform Code of Military Justice, such brief may be submitted in lieu of this statement.

(d) *Civilian counsel provided by accused.* (1) Notice that an accused has retained or has taken action to retain civilian counsel to represent him before a board of review will be forwarded to the convening authority for attachment to the record or dispatched to the Judge Advocate General within ten days from the date of sentence. In cases referred to a board of review under Article 69, Uniform Code of Military Justice, the accused will forward such notice within two days after receipt of notice by him of such referral unless he has already forwarded such notice. The notice of representation by civilian counsel will be signed by the accused or his representative and will state the name and address of such civilian counsel. When the accused has forwarded a timely notice of intention to retain civilian counsel, a notice of retainer stating the name and address of such counsel must be received in the Office of the Judge Advocate General within ten days of receipt of the notice of intention. Such civilian counsel will thereafter be notified of the receipt of the record of trial in the Office of the Judge Advocate General, the number of the case, the board to which the case has been referred, and the arrangements made, or to be made, for a hearing.

(2) If the accused has forwarded a timely notice of intention to retain civilian counsel, appellate defense counsel shall be assigned to represent the interests of the accused pending appearance of civilian counsel.

(e) *Failure to request or give notice of appellate counsel.* Failure of an accused to request appellate defense counsel or to give notice of retainer of civilian counsel or of intention to retain civilian counsel within the times prescribed may be regarded as a waiver of such right and a board may take final action in the case. Upon application made to the Judge Advocate General at any time before the board of review has taken final action in a case, and for good cause

shown, the times prescribed herein may be extended.

(f) *Mandatory assignment of appellate defense counsel.* In all cases in which the United States is represented by counsel before a board of review, the accused will be assigned appellate defense counsel if not already represented by counsel.

(g) *Direct communication.* Civilian counsel may communicate directly with appellate defense or Government counsel. Appellate defense counsel may render such appropriate assistance in connection with the appellate review of the case as may be requested by civilian counsel.

(h) *Notice of appearance of counsel.* Appellate defense and Government counsel in a case before a board of review will file a written notice of appearance in the Office of the Judge Advocate General within five days of assignment to the case. Civilian counsel will file such notice within ten days from the date of receipt of the notice of retainer. Unless separate notice of appearance is filed, an assignment of errors, brief, or other formal paper will constitute a notice of appearance. [Rule V]

§ 471.6 *Records of trial.* Civilian counsel who do not have a copy of the record of trial may make arrangements with appellate defense counsel to examine a copy of the record of trial in the Office of the Judge Advocate General and to make a copy of the whole or any part thereof without expense to the Government. [Rule VI]

§ 471.7 *Assignment of errors.* Within ten days after notice of receipt of the record in the Office of the Judge Advocate General appellate counsel for the accused shall file an assignment of errors setting forth separately and particularly each error asserted and intended to be urged § 471.21. An original and five clear copies prepared in accordance with the provisions of § 471.8 (a) will be submitted. It will contain the information prescribed in § 471.8 (d) (1). A reply to this assignment may be filed within ten days. For good cause shown the Judge Advocate General may extend these times. [Rule VII]

§ 471.8 *Briefs—(a) General provisions.* The assignment of errors prescribed in § 471.7 may be included in, or filed in lieu of, a brief for the accused. An original and five clear copies of all briefs will be submitted. Briefs will be typewritten, double-spaced on 8" x 12½" (legal cap) white paper, securely fastened at the top. All references to matters contained in the record will show record page numbers and any exhibit designations.

(b) *Number of briefs.* Appellate counsel will be limited to the filing of one brief for each side unless the board otherwise permits or directs.

(c) *Time for filing.* Any brief for an accused will be filed within ten days after his appellate counsel has been notified of the receipt of the record in the Office of the Judge Advocate General. If the Judge Advocate General has di-

rected appellate Government counsel to represent the United States, such counsel may file a brief on behalf of the Government within ten days after any brief or an assignment of errors has been filed on behalf of an accused. If no brief is filed on behalf of an accused a brief on behalf of the Government may be filed within ten days after expiration of the time allowed for the filing of a brief on behalf of the accused. For good cause shown the Judge Advocate General may extend the times prescribed herein, giving due notice of such extension to the opposing party.

(d) *General contents.* (1) Each brief will indicate on the cover page (§ 471.22):

(i) The designation of the board of review to which the case has been referred,

(ii) The number of the case, if known, and the caption with designation of parties,

(iii) Title of the document,

(iv) Names and addresses of all counsel submitting the document.

(2) An index containing:

(i) Divisions of the brief, including a summary of the argument,

(ii) Table of authorities cited with references to the page of the brief where cited.

If the brief is less than ten pages long this index may be omitted.

(e) *Contents (Accused)* (§ 471.23). The brief for an accused will contain the following arranged in the order indicated:

(1) A summary of the proceedings showing the findings and sentence as approved and the action of the convening authority thereon;

(2) A concise statement of the facts of the case containing all that is material to the consideration of the questions presented with appropriate page references to the record;

(3) The substance of the errors or points intended to be urged, prepared in accordance with § 471.7;

(4) The argument exhibiting clearly the points of fact and law being presented, citing the authorities and statutes relied upon, and quoting the relevant parts of such authorities and statutes as are deemed to have an important bearing;

(5) A conclusion stating concisely why the case should be decided as urged.

(f) *Contents (Government).* (1) A brief on behalf of the Government will be of like character as that prescribed for the accused except that the matters prescribed in paragraph (e) (1), (2), and (3) of this section need not be given unless deemed necessary in correcting any inaccuracy or omission in the brief of the accused.

(2) Appropriate proof of service of a copy of the brief will appear on the cover sheet when the accused is represented by civilian counsel. [Rule VIII]

§ 471.9 *Hearings—(a) Oral arguments.* Cases where the parties are not represented by counsel will be considered as submitted without oral argument. All other cases will be set for argument unless, upon request of counsel, a board

permits a case to be submitted without argument. The accused does not have a right to be present at the hearing before the board of review.

(b) *Notice of setting of arguments.* A board of review will give appellate counsel at least ten days notice of the time and place of oral argument, unless waived.

(c) *Time limits.* The length of oral arguments will be within the discretion of a board of review and ordinarily will not exceed thirty minutes for each side.

(d) *Number of counsel; opening and closing.* A board in its discretion may limit the number of counsel making an oral argument. The defense will have the right to make opening and closing arguments.

(e) *Failure to appear.* Failure of appellate counsel to appear at the time and place set for oral argument may be regarded as a waiver thereof and the board may proceed to act on the case as submitted without argument or, in its discretion, may continue the case for argument at a later date, giving due notice thereof.

(f) *Matters outside record.* Matters outside the record of trial will not be presented to or argued before a board of review except with respect to:

(1) A petition for new trial referred to a board under Article 73, Uniform Code of Military Justice,

(2) A question of jurisdiction,

(3) Matters affecting the sanity of an accused tending to show that further inquiry as to his mental condition is warranted in the interest of justice,

(4) Matters as to which judicial notice may be taken in military law.

When requested by the Judge Advocate General, a board of review may hear and report to him on any matter outside the record in mitigation of the sentence, or otherwise in the interest of justice. [Rule IX]

§ 471.10 *Decisions of a board of review—(a) Notice of decisions.* Notice of the decision of a board of review will be accomplished as prescribed in paragraph 100, Manual for Courts Martial, 1951 (16 F. R. 1303). In any case where a board affirms a sentence without opinion, notice upon the accused and appellate counsel for the accused, in accordance with paragraph 100c (1) (a), Manual for Courts Martial, 1951, may be accomplished by any equally expeditious means of communication.

(b) *Copies of decisions.* A copy of the decision of a board of review will be furnished appellate counsel for the accused. [Rule X]

§ 471.11 *Continuances and interlocutory matters.* Except as otherwise provided in this part a board, in its discretion, may extend any time limits prescribed, may grant continuances for such time and as often as may appear to be just, and may dispose of any interlocutory or other matters, not specifically covered by these rules, in such manner as may appear to be required for a full, fair, and expeditious consideration of the case.

APPENDIXES

§ 471.21 Appendix 1—Form for assignment of errors. (§ 471.7.)

IN THE OFFICE OF THE
JUDGE ADVOCATE GENERAL OF THE AIR FORCE¹

Before Board of Review No. -----

UNITED STATES

v.

Private JOHN RICHARD ROE, U. S. Air Force,
AF00000000, 3000th Training Squadron,
4000th Technical Training Group.Case No. ----- Tried at -----,
on ----- 19-----, before a G. C. M.
appointed by CG ----- Air Force.

ASSIGNMENT OF ERRORS

SUMMARY OF PROCEEDINGS

Upon trial by general court-martial the accused pleaded not guilty to, and was found guilty of, absence without leave from 2 June 1951 until 1 July 1951 in violation of U. C. M. J. Art. 86, and of the larceny of a watch of a value of \$75.00 the property of Private Schmidt, in violation of U. C. M. J. Art. 121. On -----, 19----- he was sentenced to dishonorable discharge, forfeiture of all pay and allowances, and confinement at hard labor for 4 years. The convening authority approved the sentence, forwarded the record of trial to the Judge Advocate General of the ----- and directed that pending completion of appellate review the accused be transferred to the command of -----, where he is presently confined in the base stockade, ----- Air Base, -----.

ERRORS

The following errors are assigned:

1. The law officer erred in admitting in evidence as Prosecution's Exhibit No. 1, an alleged extract copy of the morning report of the 3000th Training Squadron dated 2 June 1951 (R. 17).

The exhibit shows that the alleged morning report was signed, and indicates that the entry as to the accused's alleged unauthorized absence was made, by Sergeant William Q. Johns, 3000th Training Squadron. Under pertinent regulations in effect at the time the alleged entry was made, a non-commissioned officer was not the proper person to sign the morning report and had no official duty to record the fact of unauthorized absence.

2. The court erred in its findings of guilty of absence without leave (R. 29), as there was no competent evidence of the alleged unauthorized absence.

3. -----

4. -----

(s) -----

JOHN J. DOE,
Major, USAF, Office of the Judge
Advocate General, U. S. Air Force,
Appellate Defense Counsel.

§ 471.22 Appendix 2—Form for cover page of brief. (§ 471.8.)

IN THE OFFICE OF THE JUDGE ADVOCATE
GENERAL OF THE AIR FORCE¹

Before Board of Review No. -----

UNITED STATES

v.

Private JOHN RICHARD ROE, U. S. Air Force,
AF00000000, 3000th Training Squadron,
4000th Technical Training GroupCase No. ----- Tried at -----, on
----- 19-----, before a G. C. M. ap-
pointed by CG ----- Air Force.

BRIEF ON BEHALF OF ACCUSED

(BRIEF ON BEHALF OF THE GOVERNMENT)

(REPLY BRIEF ON BEHALF OF ACCUSED)

ROGER Q. SMITH,
Attorney-at-Law, Crow Building,
Muscatine, Iowa, Civilian Coun-
sel for Accused.

WILLIAM R. QUEEN,
Major, USAF, Office of the Judge
Advocate General, U. S. Air Force,
Appellate Defense Counsel.

§ 471.23 Appendix 3—Form for con-
tents of brief on behalf of accused.
(§ 471.8.) (For form of cover page, see
§ 471.22.)

INDEX OF BRIEF

(Omit if brief is less than 10 pages long)

Summary of proceedings.

Statement of facts.

Assignment of errors.

Argument:

I. An extract copy of a morning report entry, which entry was made by a noncommissioned officer who had no official duty to make the entry, is not admissible in evidence as an exception to the hearsay rule.

a. Such an entry is not an official record.

b. The local practice of permitting unauthorized persons to sign morning reports in violation of Departmental regulations cannot create a custom having the force of law so as to impose upon the maker of the writing a duty to record the facts contained therein.

c. An extract copy of an alleged morning report is not a business entry.

II. The improper cross-examination of an accused, who has testified only as to the circumstances under which an alleged confession had been obtained, concerning the issue of guilt or innocence constitutes fatal error.

Conclusion.

TABLE OF AUTHORITIES

MANUAL FOR COURTS-MARTIAL

MCM, 1951, par. 140a.

MCM, 1951, par. 144b.

CASES

-----, v. United States, -- F. 2d --

18 U. S. C. -----

REGULATIONS

AFR -----, 10 August 1950.

MISCELLANEOUS

Fifth Amendment of the Constitution.

Winthrop, Military Law and Precedents, 2d Ed. 1920 Reprint, pp. -----

UNITED STATES v. Private JOHN RICHARD ROE,
U. S. Air Force, AF00000000, 3000th Train-
ing Squadron, 4000th Technical Training
Group

Case No. ----- Tried at -----, on
----- 19-----, before a G. C. M. ap-
pointed by CG ----- Air Force.

BRIEF ON BEHALF OF ACCUSED

SUMMARY OF THE PROCEEDING

(See first paragraph of Appendix 1)

STATEMENT OF FACTS

Briefly summarized the record of trial
shows ----- (State all the facts material to
the consideration of errors assigned).

ASSIGNMENT OF ERRORS

The following errors are assigned:
(See Appendix 1)

ARGUMENT

(Discuss the points presented separately
and in detail under the headings listed in
the index, citing and quoting applicable au-
thority deemed to have an important bear-
ing).

CONCLUSION

For the reasons stated, the findings of
guilty and the sentence should be set aside
and the charges should be dismissed.

(S) -----

ROGER Q. SMITH,
Attorney-at-Law, Crow Building,
Muscatine, Iowa, Civilian Counsel
for Accused.

(S) -----

WILLIAM R. QUEEN,
Major, USAF, Office of the Judge
Advocate General, U. S. Air Force,
Appellate Defense Counsel.

REGINALD C. HARMON,
Major General, USAF, The
Judge Advocate General,
United States Air Force.

J. L. HARBAUGH, JR.,
Brigadier General, USA, Acting
The Judge Advocate General
of the Army.

G. L. RUSSELL,
Rear Admiral, U. S. Navy, Judge
Advocate of the Navy.

THOMAS J. LYNCH,
General Counsel of the Treasury
Department.

MAY 4, 1951.

[F. R. Doc. 51-5505; Filed, May 11, 1951;
8:48 a. m.]

TITLE 32A—NATIONAL DEFENSE,
APPENDIXChapter III—Office of Price Stabiliza-
tion, Economic Stabilization Agency

[Ceiling Price Regulation 14, Amdt. 2]

CPR 14—CEILING PRICES OF CERTAIN
FOODS SOLD AT WHOLESALE

MISCELLANEOUS AMENDMENT

Pursuant to the Defense Production
Act of 1950 (Pub. Law 774, 81st Cong.),
Executive Order 10161 (15 F. R. 6105),
and Economic Stabilization Agency Gen-
eral Order No. 2 (16 F. R. 738), this
Amendment 2 to Ceiling Price Regula-
tion 14 is hereby issued.

STATEMENT OF CONSIDERATIONS

This amendment corrects certain ty-
pographical errors in Ceiling Price Regu-
lation 14; establishes appropriate pro-
visions to provide a pricing method for
retailers purchasing food items from
"service-fee" wholesalers; and, excludes
certain wholesalers selling mostly "spe-
cialty" food items from using the mark-
ups in this regulation if they meet cer-
tain specific conditions, including an
average markup on "net cost" of 22 per-
cent or more in their fiscal year 1950
on all food sales.

Items 4 and 5 of this amendment deal
with "service-fee" wholesalers. CPR-14
provides a pricing method for the type
of wholesalers employing percentage

¹ Use Judge Advocate General of the Army,
Judge Advocate General of the Navy, or Gen-
eral Counsel of the Treasury Department,
respectively, for Army, Navy, or Coast Guard
accused, and modify title accordingly.